

STOCKBRIDGE-MUNSEE COMMUNITY Competitive Construction Bid Policy

1. Council Findings

(A) The Tribal Council finds that precision and consistency in the Tribal contracting bid process is needed in order to obtain the best possible quality construction at the most reasonable prices for the Tribe.

2. Purpose

The purpose of this Policy is to define the bidding process for Tribally owned and/or operated facilities. The Tribal Council has determined that a competitive consistent bidding process will benefit the Tribe because the Tribe will be better equipped to make informed decisions when selecting a construction contractor.

3. Definitions

(A) "Agency" means any and all arms, departments, enterprises, organizations, instrumentality, corporations, Tribal Council, or other entities of the Tribe that has the final (ultimate) control over the plan preparation, bid process, posting, advertising, and/or acceptance of submitted bids.

(B) "Bid documents" means collectively, the bidding requirements and the proposed contract documents, including addenda issued prior to receipt of bids.

(C) "Complete bid" means a complete properly signed offer submitted in accordance with the bidding requirements by a contractor to contract or perform the work designated, or portion thereof for the amounts stipulated therein. It shall be comprehensive enough that the offer requires no further inquiry, explanation, or clarification.

(D) "Emergency" means a situation usually caused by catastrophic events such as tornadoes, floods, storms, war, freezing, and other similar events that requires construction or repair to begin immediately to protect the health and welfare of the community or because of business necessity. Emergency does not mean a situation caused by ineffective planning.

(E) "Enterprise" means any business, corporation, partnership, sole proprietorship, or joint venture.

4. Coverage and Scope

(A) This Policy applies to all construction projects and proposals for all Agencies.

(B) The Planning and Evaluation Team (section 11) shall apply to all projects that exceed \$100,000.00.

(C) Certain federal/state contracts and grants may supersede or contain provisions that are inconsistent with this Policy. If the contract/grant provisions are mandatory, those provisions of the contract/grant contract shall control, and the remaining portions of this Policy shall be adhered to.

(D) This Policy does not prohibit the Tribe or Agency from performing the proposed work or service itself, if the Tribal Council determines that the best interests of the Tribe would be better served if the Tribe performed the project or proposal.

(E) This Policy does not apply to change orders or change directives, which are added work or services within the general scope of an on-going project.

(F) This Policy does not prohibit an Agency or Team from retracting any invitation for bids.

5. Approved Contractors

(A) The Public Works Administrative Assistant shall compile and regularly update a list of Approved Contractors. The Public Works Director shall submit the list of Approved Contractors to Tribal Council quarterly.

(B) The criteria for determining Approved Contractors include insurance, ability to obtain bonding, experience, reliability, previous references, background/portfolio of the enterprise, technical ability, financial ability, and applicable certification and/or licenses.

(1) The Tribe reserves the right to remove a contractor from the Approved Contractor's list for cause or any reason. If a contractor is removed from the Approved Contractors list, the Public Works Administrative Assistant shall so note the removal in his/her report to Tribal Council.

(2) Contractors may submit this information on AIA Doc. 305, or similar form.

6. Site Selection

(A) Prior to final site selection, the Agency or Team need to consult and receive comments from the Land Office through Impact Review forms from Public Works, Environmental, and Forestry regarding the proposed site selection.

(B) If any of the above departments disapprove of the site selection, the department and Agency or Team shall notify Tribal Council.

7. Plans and Specifications

(A) The Team or Agency shall prepare plans and specifications, or have plans and specifications prepared, containing a description of the work, the type and/or quality of materials to be used, and such other matters that will give perspective bidders a clear idea of the scope of work required.

- (1) Such plans and specifications are essential to the bidding process to prevent a prospective bidder from gaining an unfair advantage over another bidder.
- (2) Bids submitted based on uniform plans and specifications will aid the Team, Agency, or Tribal Council in comparing bids to determine which bid is the lowest responsible bid.
- (3) The Agency or Team is permitted to charge a nominal fee for copies of the plans that prospective bidder's request.

(B) All requests for bids or proposals shall be based on the scope of work as described in the drawings and uniform specifications.

(C) If the project is for a public, commercial, or multi-family facility, then the plans and specifications shall be prepared and stamped by a licensed professional and reviewed and approved by the appropriate state authority.

8. Advertisement and Posting

(A) The Advertisement for Bids will be posted in the Mohican News, Tribal website, Shawano Leader and all Tribal Posting Boards throughout the Stockbridge-Munsee Community at least 14 days before the bidding date is closed.

(B) Advertisements for Bids or proposals shall contain the basic information regarding the project:

- (1) Description of the project.
- (2) Project or contract number, if applicable.
- (3) Plans and specifications, if applicable, and/or price and location where plans and specifications can be purchased.
- (4) Due date and time for bids to be submitted.
- (5) Address and requirement that sealed bids should be delivered to Tribal Secretary.
- (6) Whether specific bid sheets/forms are required.
- (7) Contact person for more information on the project.
- (8) Bid security requirement and percentage (if applicable).
- (9) Contract security requirement (if applicable).
- (10) Statement of Qualifications of the Contractor (if applicable).
- (11) Project starting date, milestones, and completion date.
- (12) Notice that written contract will be required.

- (13) Bond requirements, if applicable.
- (14) Tribe's right to reject any and all bids or withdraw the Advertisement.
- (15) Whether bids may be withdrawn.
- (16) Whether Tribal or federal Davis Bacon wage rates apply.
- (17) The Tribe will not accept a bid that is not complete.
- (18) Notice that this policy applies to the bid.
- (19) Any other relevant information.

(D) Addendum to Advertisement for Bids

- (1) The Tribe may release addendums to Advertisements for Bids as appropriate in order to supplement or correct information to insure that all bidders have the same information.
- (2) The addendum will be posted as appropriate, as well as provided to known prospective bidders.

(E) Copies of this policy shall be made available to all bidders.

10. Bid Opening

(A) The bid opening shall occur at the Tribal offices at the scheduled time, unless special circumstances require that the bid opening occur at another time and/or location.

(B) A member of Tribal Council, a Tribal Attorney, the Purchasing Manager and the Tribal Secretary shall be present at the bid opening.

- (1) The names of the bidder and the price of each bid shall be read aloud and recorded at open bid openings.
- (2) The Tribe is not bound to make a decision as to which bid to accept at the bid opening.

11. Projects over \$100,000.00: Planning and Evaluation Team

(A) Construction projects over \$100,000.00 require that a planning and evaluation team ("Team") be created. The Team's purposes are:

- (1) to ensure that the construction project is planned to meet the needs of the Tribe,
- (2) to create a specific checklist for the project,
- (3) to ensure that the Invitations for Bids or Proposals are clear and complete, and meet the needs of the Tribe,
- (4) to facilitate the bid opening, including determining if the bid should be an open or closed opening,
- (5) to negotiate with bidders, if it is in the best interests of the Tribe to negotiate details prior to recommending a bid to Council,
- (6) to recommend to Tribal Council the bid to select for the project,
- (7) to make other recommendations to Tribal Council, as needed depending on the scope and size of a particular project,

- (8) to recommend to Tribal Council the architect to be selected (if applicable),
- (9) to assist the designated Project Manager, as needed, to ensure that the construction project proceeds as planned, and
- (10) seek consultation with Legal, as needed.

(B) The Team shall be comprised of the designated Project Manager, and at least two other individuals listed below:

- (1) the applicable Tribal Department Director(s) and Assistant(s),
- (2) the Tribal Environmentalist,
- (3) the project Architect, if applicable,
- (4) the Business Developer,
- (5) members of applicable boards,
- (6) Legal, or
- (7) other Tribal employees (subject to approval from their supervisor and the Tribal Project Manager) who have experience, or need experience with construction projects.
 - (a) Some members of the team may have a limited duration with the team, while others should remain on the team for the entire project. For example, Legal or the environmentalist may be needed for only certain times of the project, while the applicable department director may need for the entire project.
 - (b) The Project Manager remains the owner's representative, unless Tribal Council deems otherwise.

(C) The designated Project Manager, as the Tribe's (owner's) representative shall recommend to Tribal Council who shall be members of the team for each project.

12. Projects under \$100,000.00: Agencies

(A) Agencies shall adhere to as many of the requirements and functions of the Planning and Evaluation Team as is reasonably possible.

13. Minor Changes in the Work

(A) The designated Project Manager is limited to authorizing minor changes in the work to correct minor errors and omissions, or for changes that are manifestly necessary to carry out the intent of the contract, so long as the minor change in the work does not exceed the project budget. Any changes that exceed the approved budget must come before Tribal Council.

14. Compliance

(A) All Agencies are bound by this Policy. Each Agency and Team shall fully comply with all terms of this Policy. Agencies and Teams shall not divide projects, or take other actions to avoid being subject to this Policy.

(B) Persons who do not comply with this Policy are subject to disciplinary action.

(C) Before any bid or proposal is recommended to Tribal Council, the Team or Agency must complete a Bid Review Checklist. The Purchasing Manager shall keep completed Bid Review Checklists on file for three years, for future reference by other Teams.

(D) Under no circumstances are Agencies, Teams, or Tribal Council bound to accept bids, even though an invitation for bids or proposals has been published and the bids have been opened.

(1) Tribal Council reserves the right not to enter into contracts.

(E) Teams or Agencies are not bound to recommend the lowest submitted bid. Teams or Agencies have the right to reject bids that are not complete. Teams or Agencies shall consider the best interests of the Tribe when making recommendations to Tribal Council. Teams and Agencies shall consider:

- (1) Price contained in the submitted bid,
- (2) Quality of the workmanship, service, or materials, contained in the bid,
- (3) Past experience with the contractor or bidder,
- (4) Whether the bidder is responsibly qualified, and
- (5) Reputation of the contractor or bidder.

(F) Tribal Council shall have discretion to disclose information relating to accepted bids to unsuccessful bidders.

(G) Legal shall review all contracts before the Tribe signs the contract. A request to review contract form must be completed.

15. Effective Date; Severability

(A) The provisions of this Policy, as amended, shall take effect after Tribal Council, by Resolution, adopts this Policy.

(B) If any provision of this Policy is ruled illegal by a court of competent jurisdiction, the remaining provisions of this Policy shall remain unaffected.

16. Inconsistent Policies

This Policy supersedes all conflicting Tribal Policies.